



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC No.: HOha15010034  
HUD No.: [REDACTED]

JAMAL SMITH, in his official capacity as  
EXECUTIVE DIRECTOR of the  
INDIANA CIVIL RIGHTS COMMISSION  
Complainant,

v.

GENE B. GLICK COMPANY & BROOKVIEW APARTMENTS,  
Respondents.

NOTICE OF FINDING and  
ISSUANCE OF CHARGE

The Executive Director of the Indiana Civil Rights Commission ("Commission,") pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Reasonable cause exists to believe that an unlawful discriminatory practice occurred in this instance. A Charge is therefore issued in accordance with 910 IAC 2-6-6(b).

On January 14, 2015, [REDACTED] ("Complainant") filed a Complaint with the Commission against Gene B. Glick Company/Brookview Apartments ("Respondents") alleging discrimination on the basis of disability in violation of the Indiana Fair Housing Act (Ind. Code § 22-9.5, *et seq.*) the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter of this Complaint. An investigation has been completed. Both parties had an opportunity to submit evidence. Based on the final investigative report and a review of the relevant files and records, the Deputy Director now finds the following:

There are two issues pending before the Commission. The first issue before the Commission is whether Respondent refused to renew Complainant's lease because of her disability. In order to prevail, Complainant must show that: 1) she is a member of a protected class, 2) she was qualified, ready, willing and able to continue her tenancy with respondent in accordance with its reasonable terms and conditions; 3) Respondent did not allow Complainant to renew her lease; and 4) Respondent treated Complainant less favorably than similarly-situated tenants without disabilities.

It is evident that Complainant is a member of a protected class by virtue of her disabilities; however, evidence shows that she was unwilling to continue her tenancy in a manner



consistent with Respondent's reasonable terms and conditions. Moreover, no evidence has been provided or uncovered to show that she was treated less favorably than tenants without disabilities under similar circumstances.

By way of background, Complainant and Respondent entered into a lease agreement on or about October 1, 2013 for a one year term to expire on or about September 30, 2014. At all times relevant to the Complaint, the lease provided that residents shall comply with all reasonable rules and/or regulations including but not limited to those related to the safety, care, cleanliness, and quiet enjoyment of the property. Complainant was aware of these provisions as evidenced by her signature on the lease; nonetheless, during her tenure with Respondent, Complainant violated numerous terms of the lease including but not limited to taking and bringing unauthorized shopping carts onto the apartment's premises despite being asked to stop, removing landscaping including soil and rocks, impersonating a staff member while inspecting another resident's apartment, and refusing to allow pest control personnel to enter her unit after requesting their services. Despite repeated warnings regarding the violations and requesting compliance, Respondent mailed a Complainant a non-renewal notice on or about July 24, 2014, stating that the lease would not be renewed after expiration due to numerous lease violations. Ultimately, Respondent refused to renew Complainant's lease after expiration.

Despite Complainant's assertions, no evidence has been submitted or uncovered to support her allegations with respect to the first issue. Rather, evidence shows that Complainant failed to comply with Respondent's reasonable terms and conditions on numerous occasions in contravention of the lease. Moreover, no evidence has been provided or uncovered to show that similarly-situated tenants without disabilities were treated more favorably under similar circumstances as Respondent evicted several tenants with numerous lease violations. As such and based upon the aforementioned, there is no reasonable cause to believe that Respondent violated the laws as alleged with respect to the first issue. Complainant may appeal the finding of no reasonable cause regarding the first issue to the full Commission. 910 IAC 1-3-2(g). The written appeal must be filed with the Commission within fifteen (15) days of receipt of this Notice and must include any new and additional evidence relied on by Complainant to support the appeal.

The second issue before the Commission is whether the Respondent unreasonably delayed or denied Complainant's request for a reasonable accommodation. In order to prevail, Complainant must show that: 1) she has a disability as defined under the law; 2) Respondent was or should have been aware of Complainant's disability; 3) Complainant requested a reasonable accommodation necessary to afford her an opportunity to use and enjoy the premises; and 4) Respondent unreasonably delayed or denied the requested accommodation. It is evident that Complainant has impairments that substantially limit her coping skills and ability to react appropriately to others. Moreover, it is evident that Respondent was aware of Complainant's impairments. While Complainant requested a reasonable accommodation

necessary to afford her the opportunity to enjoy and remain in her housing, evidence shows that Respondent unreasonably delayed or denied the request.

By way of background and at all times relevant to the Complaint, Respondent utilized a 504 reasonable accommodation committee to review all requests made by tenants for reasonable accommodations. During Complainant's tenure with Respondent, both parties admit that a maintenance technician asked Complainant to remove her service animal from the laundry room. However, Respondent asserts that it retrained the technician regarding service animals and Complainant admits that she was permitted to take her service animal around the apartment, including the laundry room, without further issue. Nonetheless, after receiving the notice of non-renewal in July 2014, on or about August 12, 2014 and August 19, 2014, Complainant requested an accommodation of a six-month renewal of her lease with the possibility of future renewals if she was able to control her outburst during the initial six-month period. In support, evidence shows that Complainant tendered a doctor's statement stating that "due to [Complainant's] mental health problems, she has very poor coping skills and often reacts inappropriately to others. It is my understanding that she may be losing her place of residence due to her inappropriate reactions. Please excuse this behavior as [Complainant] has been in and out of mental health treatment for years. We are currently in the process of getting her reestablished with a mental health therapist." Later, correspondence from Indiana Legal Services on behalf of Complainant stated that "[Complainant] is reconnecting with mental health experts for treatment and therapy so that she can better address the issues that led to a decision not to renew her lease." Nonetheless, on or about August 21, 2014, Respondent denied the request asserting that there was no nexus between the theft of landscape items and impersonating property staff with her conditions. On or about September 2, 2014, Complainant, via representation from Indiana Legal Services, submitted a letter requesting an appeal of the August 21, 2014 decision. Specifically, the letter reasserted that Complainant's "verbal outburst are due to her disability" and that she was "activity seeking treatment to address these issues." While Complainant noted she was open to different period of time, Respondent denied the appeal on or about September 8, 2014, but agreed to give her until October 31, 2014 to find alternative housing and to vacate the premises. Complainant ultimately agreed to the one month extension upon which to find alternative housing; however, Respondent simply denied Complainant's request to renew the lease for a period of time sufficient to address the underlying behaviors stemming from her disability.

Despite Respondents assertions, there is insufficient evidence to support its claims. Rather, Respondent admits that Complainant requested a reasonable accommodation to renew her lease for a short period of time while seeking treatment to address behaviors arising out of her medical condition. Nonetheless, despite medical evidence to the contrary, Respondent found that Complainant failed to establish a nexus between the behaviors at issue and Complainant's disability. While Complainant offered an alternative accommodation, this accommodation did not permit Complainant the opportunity to seeking further medical treatment and remain in her housing with the possibility of renewal. Moreover, no evidence has been provided or uncovered to show that the six-month renewal period, contingent upon Complainant improving

her behavior, was unreasonable or would establish an undue administrative burden upon Respondent. As such and based upon the aforementioned, reasonable cause exists to believe that a discriminatory practice occurred as alleged with respect to the second issue.

A public hearing is necessary to determine whether a violation of the Indiana Fair Housing Act, the Indiana Civil Rights Law, and/or Title VIII of the Civil Rights Act of 1968, as amended, occurred in the aforementioned case. As permitted by 910 IAC 2-6-6(h), Respondents, Complainant, or any aggrieved person on whose behalf the Complaint is filed may elect to have the claims asserted in a civil action under Ind. Code § 22-9.5-6-12 in lieu of an administrative proceeding under 910 IAC 2-7. In the event the parties seek to pursue such an election, it must be made not later than twenty (20) days after the receipt of service of this Notice of Finding and Charge. The notice of any such election must be filed with the Commission and served on the Director, the Respondents, and Complainant in accordance with 910 IAC 2-6-6. If such an election is not timely made, the administrative proceedings initiated by the Charge will continue as scheduled. 910 IAC 2-6-6. Moreover, Respondents shall have an opportunity to file an answer to this charge within thirty (30) days of service of this Charge. [REDACTED], and any other person aggrieved by this alleged discriminatory practice may participate as a party in the hearing by filing a request for intervention. All discovery in this matter must be completed fifteen (15) days prior to the date of hearing. If at any time following service of this charge Respondents intend to enter into a contract, sale, encumbrance, or lease with any person regarding the property that is the subject of this charge, Respondents must provide a copy of this charge to the person prior to entering into such contract, sale, encumbrance or lease. 910 IAC 2-7-4(e)(3).

August 10, 2015

Date



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Jamal L. Smith  
Executive Director  
Indiana Civil Rights Commission